UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,472	06/15/2001	Harvey M. Ruback	6169-157	8075

40987 7590 04/18/2007 AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188	**EXAMINER** OPSASNICK, MICHAEL N

ART UNIT	PAPER NUMBER
2626	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	09/882,472	RUBACK ET AL.
	Examiner	Art Unit	
	Michael N. Opsasnick	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 January 2007*.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10 and 13-25* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 13-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-10,13-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Dragosh (6604077) in view of White et al (6408272).

As per claims 1,10,14,23,24, Dragosh (6604077) teaches a method for processing

speech audio in a client device (abstract) comprising:

"selecting a speech grammar....device" as selecting the grammar for the

appropriate application (col. 5 lines 35-45);

"characterizing the selected speech grammar based upon a pre-determined

characterization embedded within the selected speech grammar, for processing the speech

grammar locally in the client device or remotely in a speech server" as characterizing the

grammar based on the grammar handle (col. 6 lines 24-32, col. 6 lines 42-59; the

grammar handle that is embedded in the grammar itself identifying it as a "canned"

grammar from a plurality of different types of "canned" grammars, or to go to a URL to

find the appropriate grammars; the grammar handles make the distinction between a

"canned" grammar, and one that is available via URL, and clearly is a distinction with

respect to complexity).

"based on the characterization......server in the network" as downloading the

grammar from the server if it is determined to be the grammar that is wanted (col. 5 lines

65 – col. 6 line 40).

As per claims 1,10,14,23,24, Dragosh (6604077) teaches the location of the

grammar to be chooseable, but however, does not explicitly teach determining at the

client side to perform the process at a server. White et al (6408272), however, teaches

the evaluation of speech processing capability at the local device, and based upon

performance determination, transfers the speech processing to a remote device when the

local device cannot handle the speech processing (White et al (6408272), abstract, Fig. 4,

col. 17 line 63 – col. 18 line 18). Therefore, it would have been obvious to one of

ordinary skill in the art of speech processing to enhance the Dragosh (6604077) system

that handles grammar processing with the ability to make a determination of processing

capability on the local device (and hence send the processing to a remote device when the

local device cannot handle such processing) because it would advantageously shift the

bulk of the hardware/software requirements to a remote location, and therefore not

straining the requirements for the local device (White et al (6408272), col. 2 line 62 – col.

3 line 5).

The combination of Dragosh (6604077) in view of White et al (6408272) teaches

the choosing of the grammar, but does not explicitly teach choosing the grammar based

upon processor load/speed, but <u>Shwe et al (6560590)</u> teaches choosing a subset of a grammar based on processor load (col. 4 lines 54-59). Therefore, it would have been obvious to one of ordinary skill in the art of speech to modify the teachings of the combination of <u>Dragosh (6604077)</u> in view of <u>White et al (6408272)</u> with a processor load based grammar decision because it would advantageously provide a quicker response by the server (<u>Shwe et al (6560590)</u>, col. 4 lines 59-60).

As per claims 2,15,25, the combination of <u>Dragosh (6604077)</u> in view of <u>White et al (6408272)</u> in further view of <u>Shwe et al (6560590)</u> teaches establishing a communication session and querying the speech server (<u>Dragosh (6604077)</u>, col. 6 lines 20-38).

As per claims 3,16, the combination of <u>Dragosh (6604077)</u> in view of <u>White et al (6408272)</u> in further view of <u>Shwe et al (6560590)</u> teaches uploading the grammar (<u>Dragosh (6604077)</u>, col. 6 lines 25-27).

As per claims 4,17, the combination of <u>Dragosh (6604077)</u> in view of <u>White et al (6408272)</u> in further view of <u>Shwe et al (6560590)</u> teaches registering the speech grammar (as loading the grammar with a returned handle (<u>Dragosh (6604077)</u>, col. 6 lines 60-65).

As per claims 5-9,13,19-22, the combination of <u>Dragosh (6604077)</u> in view of

<u>White et al (6408272)</u> in further view of <u>Shwe et al (6560590)</u> teaches determination of

the type/size of grammar needed ,i.e., complexity, (a stored "canned" grammar, vs. a

specialized grammar → <u>Dragosh (6604077)</u>, col. 6 lines 25-30), determination of

locations, including locally or remotely (either stored locally or at a specific URL –

<u>Dragosh (6604077)</u>, col. 6 lines 35-40).

Response to Arguments

3.   Applicant's arguments filed 1/29/07 have been fully considered. Examiner notes the use

of the Shwe reference to teach grammar selection/usage based upon processor load.

Conclusion

4.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

5.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Michael Opsasnick, telephone number (571)272-7623,
who is available Tuesday-Thursday, 9am-4pm.
        If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Mr. Richemond Dorvil, can be reached at (571)272-7602. The fax phone number for
the organization where this application or proceeding is assigned is 571-273-8300.
        Information regarding the status of an application may be obtained from the Patent
Application Information Retrieval (PAIR) system. Status information for published applications
may be obtained from either Private PAIR or Public PAIR. Status information for unpublished
applications is available through Private PAIR only. For more information about the PAIR
system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR
system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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primary examiner
AU2626
04/14/07